

UNITED STATES COURT OF APPEALS
Filed 8/15/96
TENTH CIRCUIT

DAVID CHRISTOPHER WHITE,

Plaintiff-Appellant,

v.

ADAMS COUNTY DETENTION
FACILITY, SHERIFF CAMP, W. T.
SHEARER, Sheriff; PENNY BROWN,
Former Jail Director; MELANIE
GREGORY, Technical Services
Manager; DONALD JARVIS, Captain;
SGT. DEBACA, DEPUTY ARGO,
SGT. HERSEY, SGT. TOTTEM, SGT.
BAILY, SGT. TWEDEN, J. J. LONG,
Sgt.,

Defendant-Appellees.

No. 95-1525
(D.C. No. 94-S-2478)
(Colorado)

ORDER AND JUDGMENT*

Before **SEYMOUR**, Chief Judge, **KELLY** and **LUCERO**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions 10th Cir. R. 36.3.

unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

Mr. David C. White filed this pro se action under 42 U.S.C. § 1983, alleging that the Adams County Detention Facility and several state officials violated his Fifth, Sixth and Fourteenth Amendment rights during his incarceration. The district court dismissed Mr. White's complaint pursuant to 28 U.S.C. § 1915(d) and denied him leave to proceed *in forma pauperis* on this appeal.

This matter is before the court on Mr. White's motion for leave to proceed on appeal without prepayment of costs or fees. In order to succeed on his motion, Mr. White must show both: (1) a financial inability to pay the required filing fees and (2) the existence of a nonfrivolous argument on the law and facts in support of the issues raised on appeal. See 28 U.S.C. § 1915(a); Coppedge v. United States, 369 U.S. 438 (1962); DeBardeleben v. Quinlan, 937 F.2d 502 (10th Cir. 1991).

We agree with the district court that Mr. White can make no rational argument on the law or facts in support of the issues raised on appeal. Therefore, the motion for leave to proceed on appeal without prepayment of costs or fees is denied substantially for the reasons given by the district court.

The decision of the district court is AFFIRMED. The mandate shall issue forthwith.

ENTERED FOR THE COURT

Stephanie K. Seymour
Chief Judge